

RESTRICTION REQUIREMENT

The Examiner has required restriction to one of the following inventions:

Group I, claims 98 and 99, drawn to compositions comprising a compound of formula C4, classified in various subclasses 544, 546, 548, and 549.

Group II, claims 100-103, drawn to methods of using compounds according to claims 98 and 99, classified in various subclasses of class 514.

Group III, claims 104-107 and 109-110, drawn to different methods of using compounds according to claims 98 and 99, classified in various subclasses of class 514.

Group IV, claims 108 and 111, drawn to a stent, classified in various subclasses of class 514.

Group V, claims 112-117, drawn to different methods of using compounds according to claims 98 and 99, classified in various subclasses of class 514.

The Examiner also has requested that a single compound of formula C4 be elected. It is Applicants' understanding that only after the corresponding elections have been made will the Examiner make a determination with respect to the scope of examination and Applicants will thereafter be given a chance to challenge this determination. For example, in the paragraph bridging pages 3 and 4 of the Restriction Requirement the Examiner specifically states "that the Lack of

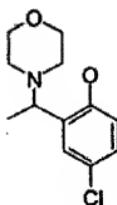
Unity requirement will not be made final until such time as applicant is informed of the full scope of compounds along with (if appropriate) the process of using or making said compounds under examination."

ELECTION

In order to be responsive to the requirement for restriction and election of species, Applicants elect, with traverse, the invention set forth in **Group I**, i.e., **claims 98 and 99 drawn to compositions comprising a compound of formula C4.**

The compound of formula **C4.002** as shown in claim 99 is elected as member of the compounds of formula C4. In the elected compound the various radicals in formula C4 have the following meanings:

- X1, X2, X3 and X4 are identical and represent CH units;
- Y1 represents a NH unit, Y2 represents a C(CH₃) unit and Y3 represents an CR₂ unit.
- R1 represents H (no substitution) and R2 represents a group of formula



Currently, claims 98 and 99 read on the elected invention/species.

Applicants note that the election of compound C4.002 will not result in a restriction of the scope of the examination to this compound.

TRAVERSE

Applicants respectfully submit that a restriction requirement is inappropriate in this case. Even if one were to assume, *arguendo*, that the inventions of Groups I to V are distinct, the requirement for restriction should be withdrawn, because there is no serious burden.

In MPEP Chapter 800, the Office sets forth its policy by which examiners are guided in requiring restriction under 35 U.S.C. § 121. Section 803 states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants note that inventions I to V identified in the Restriction Requirement all relate broadly to compounds of formula C4 as shown in claim 98 and pharmaceutical or cosmetic uses thereof. Accordingly, as a practical matter, the searches for inventions I to V should significantly overlap. Thus, the burden would not be serious if inventions I to V were searched and examined at the same time.

For the above reasons alone, the Restriction Requirement should be withdrawn, which action is respectfully requested.

The Examiner is reminded of the rejoinder practice set forth in MPEP § 821.04, i.e., if applicant elects claims directed to the product, and a product claim is subsequently found allowable,

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withdrawn process claims which depend or otherwise include all of the limitations of the allowable product claim will be rejoined.

Should there be any questions, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
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